(3)

No. 07-1251

FILED
JUL 17 2008
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
Supreme Court of the United States

ANTHONY ALEXANDER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITIONER'S REPLY BRIEF

BARRY LEVENSTAM
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ARGUMENT IN REPLY

The Government fails to acknowledge that this Court has already granted the writ of certiorari in *Melendez-Diaz v. Massachusetts,* No. 07-591 (petition granted Mar. 17, 2008), on the identical question presented in this Petition: whether laboratory test results constitute "testimonial" evidence subject to the Confrontation Clause. In granting certiorari in *Melendez-Diaz*, this Court has already concluded that the question presented in this Petition involves an important Constitutional question that is the matter of substantial controversy. In fact, the Seventh Circuit recognized the significance of the grant of certiorari in *Melendez-Diaz* when it took the unusual step of reversing its denial of Mr. Alexander's motion to appoint counsel to file this very Petition.

The Government's Brief in Opposition ("Opp.") contains only three responsive arguments. First, the Government asserts that Petitioner's case is different because here, the admitted laboratory reports contained both "conclusions" and "raw data," and the "raw data" portion of those reports was not testimonial. Second, the Government contends that its DEA expert, DeFrancesco, rendered an independent opinion with regard to the alleged substances based on this raw data. Third, the Government argues Petitioner cannot win because he failed to object at trial to the admission of the laboratory reports. These arguments are manifestly erroneous.

I. There Is No "Raw Data" In Any Of Olson's Reports Regarding The Identity Of The Seized Items.

The Government repeats the same mistaken view accepted by the court of appeals that there was "raw data" of a non-testimonial nature regarding the nature of the seized substances, and that the admission of this "raw data" into evidence[1] did not violate the Confrontation Clause. (Opp. at 9).

Review of the actual Chemical Analysis Reports proves that the Government's theoretical distinction between "non-testimonial" or "raw" data and "testimonial" interpretation of that data does not apply here. (Reply Br. App. E at 1a- 10a).

For example, the Chemical Analysis Report ("Report") and accompanying page of chain-of-custody notes for the seized item identified as Laboratory Exhibit 21 demonstrates that the Government's view is incorrect. (*Id.* at 3a - 4a.) The one-page report is titled, "Analysis Summary and Remarks." (*Id.* at 3a). The bottom of the report is

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[1] It is unclear whether the Chemical Analysis Reports themselves were admitted into evidence. The Seventh Circuit opinion asserts that the reports were "received into evidence." (Pet. App. at 3a). The Government concedes that "DeFrancesco did testify . . . about the test results and conclusions that were contained in Olson's reports." (Opp. at 6, n. 2). However, there is no indication that any "raw data generated by a machine in a laboratory" was made available to the jury (either directly or through DeFrancesco's testimony).

signed by Olson, and approved by a DEA laboratory director. (*Id.*) Below the signatures, the document reads "Page 1 of 1." (*Id.*)

The body of this Report contains only seven lines of text. Those lines are:

Laboratory No.: 157744

Exhibit 21 contains: Cocaine Hydrochloride and Caffeine

Gross Wt.: 152.9 grams (g)

Net Wt.: 125.0 g

Active Drug Ingredient: Cocaine Hydrochloride - 71%

Amount of Pure Drug: 88.7 g

Reserve Wt.: 124.5 g

(*Id.*)

This Report contains nothing more than bottom-line conclusions about the identity of the substance. There is no "raw data," independent of the conclusions, that could identify the substance.[2]

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[2] The second page is a DEA form, signed by Olson and others, titled "Report of Drug Property Collected, Purchased or Seized." (Reply Br. App. E at 4a.) This form documents the chain of custody of the substance identified as exhibit 21. (*Id.*) Nothing on this second page contains more than an allegation about the nature of the substance. (*Id.*)

Olson's report concludes that "Exhibit 21 contains: Cocaine Hydrochloride and Caffeine" and that the "Active Drug Ingredient" is "Cocaine Hydrochloride - 71%." Even the Seventh Circuit acknowledged that "[a] chemist's assertion that 'this substance was cocaine' meets the *Davis* [*v. Washington*, 547 U.S. 813 (2006] definition [of testimonial evidence.]" *Moon*, 512 F.3d at 362. The other Chemical Analysis Reports are as conclusory as this one. (Reply Br. App. at 1a, 2a, 5a - 10a.)

In light of this evidence, this Court should reject the Government's position that there is a meaningful distinction to be drawn between the "non-testimonial" data about the nature of the seized substances in Olson's reports and his "testimonial" conclusions. Because the Reports contain Olson's testimonial conclusions about the identity of the substances, and only his testimonial conclusions, the Court should grant this Petition, either with the *Melendez-Diaz* case or thereafter.

II. DeFrancesco Rendered Pure Conduit Testimony, Not An Independent Expert Opinion.

The Government asserts that there was no Confrontation Clause violation in this case because, unlike the petitioner in *Melendez-Diaz*, Petitioner had a live witness who could be cross-examined: the Government's expert, DeFrancesco.

In this case, the cross-examination of DeFrancesco could not satisfy the Confrontation Clause requirements of *Crawford v. Washington,* 541 U.S. 36 (2004), because DeFrancesco was testifying

as a conduit for Olson's conclusions and not in his own independent capacity. Thus, Petitioner lacked a meaningful opportunity to cross-examine the true proponent of the substantive opinion: Olson.

The courts are clear that experts may not serve as conduits for the opinions of others without violating the Confrontation Clause, even if the testifying expert merely references the other opinions to "bolster" his own independent analysis. *See United States v. Cuong*, 18 F.3d 1132, 1143 (4th Cir. 1994) (reversing drug conviction because government medical expert improperly bolstered his own testimony by referencing opinion of non-testifying expert and stated that the non-testifying expert's opinion was "essentially the same" as his own); *Hutchinson v. Groskin*, 927 F. 2d 722, 725-26 (2d Cir. 1991) (finding "plain error" where defendant expert served "as a conduit" where he stated that letters containing opinions of non-testifying witnesses that were "consistent with" his own); *United States v. Lawson*, 653 F.2d 299, 302 (7th Cir. 1981) ("An expert's testimony that was based entirely on hearsay reports, while it might satisfy Rule 703, would nevertheless violate a defendant's constitutional right to confront adverse witnesses.") *United States v. Williams*, 431 F.2d 1168, 1172-74 (5th Cir. 1970) (*en banc*) (finding Confrontation Clause violation when government expert was allowed to introduce factual bases for his opinion when such bases were prepared by out-of-court witnesses); *see also State v. Towne*, 452 A.2d 1133, 1135 (Vt. 1982) (finding Confrontation Clause

violation where government expert was "acting as a conduit" for another, non-testifying doctor's opinion).

DeFrancesco did not render an independent opinion in this case, as can be seen from his testimony about the item identified as Exhibit 21:

BY MR. NOZICK:

Q. Now, was Mr. Olson able to form an expert opinion as to what the contents of this exhibit were?

A. Again, cocaine hydrochloride and caffeine.

Q. Were you able to form an expert opinion as to the contents of this exhibit?

A. As I did before after reviewing his paperwork, I concur.

Q. Okay. So your expert opinion is that this is powder cocaine or cocaine hydrochloride?

A. *Based on his results*, yes.

(Pet. App. at 31a) (emphasis added).

DeFrancesco testifies that Olson's "results were cocaine hydrochloride and caffeine." (Pet. App. at 30a). He states that he "concur[s]" with Olson's "expert opinion." (Pet. App. at 31a). Although he states that he also reviewed Olson's "notes" and his "data," (*id.* at 18a), he does not identify which data he reviewed or even indicate that he performed his own independent analysis of that data. Rather, the stated basis for DeFrancesco's expert opinion is his reliance on "[Olson's] results." (*Id.* at 31a.) This type of conduit testimony constitutes DeFrancesco's statement with regard to all the drug exhibits.

A recent case shows how resolution of the *Melendez-Diaz* case will determine whether DeFrancesco's conduit testimony violated the Confrontation Clause. In *Commonwealth v. Carter*, 932 A.2d 1261 (Pa. 2007), a state drug lab manager testified in virtually the same manner as DeFrancesco did in this case: the lab manager's testimony "was not his own opinion, but merely a repetition of the information in the lab report; and the report and this testimony were the only substantive evidence establishing an essential element of the crime, *i.e.*, the presence of a controlled substance." *Id.* at 1263. An *en banc* panel of the Pennsylvania Superior Court reversed the conviction, finding a Confrontation Clause violation. *Id.* A plurality of the Pennsylvania Supreme Court reversed the lower court, but only after applying a pre-*Crawford* Confrontation Clause analysis and characterizing the laboratory reports as business records or official records subject to a hearsay exception. *Id.* at 1265 n. 3 ("*Crawford* is inapplicable to this case, and [*Ohio v.*] *Roberts* [448 U.S. 56 (1980)] governs our Confrontation Clause analysis.")[3] It is clear that, absent this pre-*Crawford* analysis, the use of a surrogate witness to read the laboratory reports into evidence would have been "reversible error." *Carter*, 932 A.2d at 1265-66. Thus, unless forensic laboratory report conclusions are "non-

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[3] The Pennsylvania Supreme Court did not apply *Crawford* because *Crawford* does not apply retroactively. *Carter*, 932 A.2d at 1265 n. 3.

testimonial" evidence under *Crawford*, the introduction of Olson's laboratory results into evidence through DeFrancesco's conduit testimony violated the Confrontation Clause. *See* Ronald Carlson, *Policing the Bases of Modern Expert Testimony*, 39 VAND. L. REV. 577, 585 (1986) ("[B]ack door introduction of the contents of a nontestifying expert's report, without producing the author of the material, impinges on the criminal defendant's sixth amendment rights.")

Even if this Court decides in *Melendez-Diaz* that laboratory reports are "testimonial" evidence subject to the Confrontation Clause, this Petition provides an extreme example of how the Government may respond if it cannot introduce drug certificates or reports directly into evidence: "a prosecutor could make an end-run around *Crawford* by supplying a token witness for cross-examination." Bradley Morin, *Science,* Crawford, *and Testimonial Hearsay: Applying the Confrontation Clause to Laboratory Reports*, 85 B.U.L.REV. 1243, 1271 (2005). In the ordinary case, expert testimony based on independent analysis is a sufficient substitute for direct confrontation of absent lab technicians. This Court should take this opportunity, however, to draw the line at pure conduit testimony.

Thus, this Petition should be considered along with the *Melendez-Diaz* case to provide a comprehensive answer to the question of whether the Confrontation Clause applies to substance identification results derived from forensic laboratory analysis.

III. Petitioner Has Demonstrated A "Reasonable Possibility" Of Prejudice Under The *Chapman* Standard Of Review.

The Government argues that this case is a "poor vehicle" for review because Petitioner failed to make a Confrontation Clause objection at trial. In support of its argument, the Government asserts - without any analysis - that the applicable standard of review is the "plain-error standard." (Opp. at 13.)

The Government fails to recognize that if this Court rules in favor of the petitioner in *Melendez-Diaz*, then the admission of the laboratory reports in this case becomes error of constitutional proportion, and for such errors, the standard of review is harmless "beyond a reasonable doubt." *Chapman v. California*, 386 U.S. 18, 24 (1967). The *Chapman* standard of review does not require a showing of actual prejudice, but merely "a reasonable possibility that the evidence complained of might have contributed to the conviction." *Id.* at 23.

The Government cites to one inapposite case, *United States v. Olano*, 507 U.S. 725, 732 (1993). As an initial matter, *Olano* directly contradicts the Government's theory that Petitioner's failure to object at trial to DeFrancesco's testimony constituted a "waiver." 507 U.S. at 733 ("Mere forfeiture, as opposed to waiver, does not extinguish an 'error' under Rule 52(b)."). Further, in *Olano*, the Court cited to *Arizona v. Fulminante*, 499 U.S. 279 (1991), which held that a legal error of constitutional proportion (a coerced confession) did not require a showing of actual prejudice. *Olano*, 507 U.S. at 735.

The Government's citation of *Olano* begs the question as to whether the admission of the laboratory results in this case without the testimony of Olson violated the Confrontation Clause, and thus was plain error of constitutional proportion.

In any event, the Government has failed to answer Petitioner's arguments that, here, there was a reasonable possibility of prejudice from the admission of Olson's conclusions. First, such "scientific evidence" can be conclusive for jurors. (Pet. Br. at 16-17.) Second, prejudice should be presumed because these conclusions were admitted in violation of Federal Rule of Evidence 703 and without a corrective jury instruction. (Pet. Br. at 17-18.) Third, there was actual prejudice in this case because it is "impossible for anyone to discern where Olson's conclusions end and DeFrancesco's independent judgment (if any) begins." (Pet. Br. at 18-19.)

CONCLUSION

For the foregoing reasons, this Court should grant this Petition for writ of certiorari and set it for hearing on the same date as *Melendez-Diaz v. Massachusetts*, Docket No. 07-591, or in the alternative, hold it pending a decision in that case.

Respectfully submitted,

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Attorneys for Petitioner

July 17, 2008

APPENDIX

BEST AVAILABLE COPY

U.S. Department of Justice
Drug Enforcement Administration
North Central Laboratory

CHEMICAL ANALYSIS REPORT

To: Resident Agent in Charge
Merrillville Resident Office

Date: June 24, 2004

Attn: TFA Steve Lucas

Case Number: I5-00-0126

Analysis Summary and Remarks:

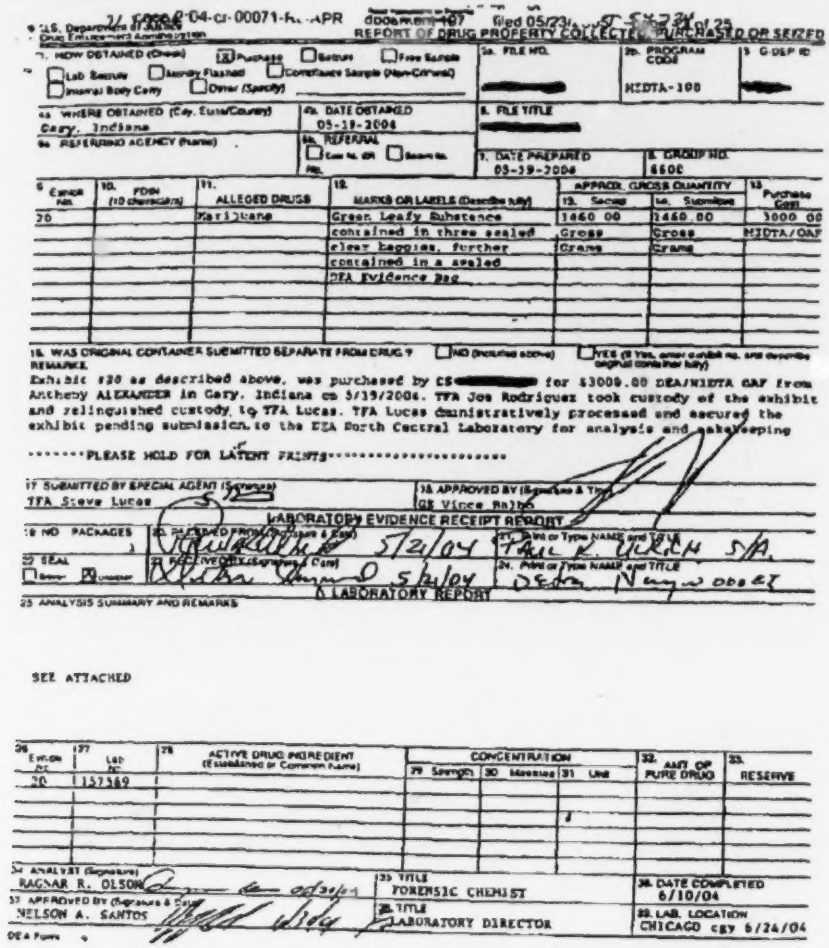
Laboratory No.: 157569
Exhibit 20 contains: Marijuana
Gross Wt.: 1455 grams (g)
Net Wt.: 1326 g
Active Drug Ingredient: Marijuana
Amount of Pure Drug: NA
Reserve Wt.: 1300 g

Note: Original packaging submitted to SFL #5 for fingerprint examination.
25.0 grams removed for special program.

Analyst Ragnar R. Olson
Forensic Chemist
Date Completed: 6/10/04

Approved by Nelson A. Santos
Laboratory Director
Laboratory Location: Chicago, IL-cgy

Prosecution / Org. Office / Laboratory / Hoqurs / ....Page 1 of 1



2:04-cr-00071-R... APR Document 107 Filed 05/23/... Page 1 of 25

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR SEIZED

7. HOW OBTAINED (Check) [X] Purchase [ ] Seizure [ ] Found [ ] Lab Sample [ ] Informer Flashed [ ] Controlled Sample (Non-Criminal) [ ] Informer Body Carry [ ] Other (Specify)

8a. FILE NO. [redacted]

8b. PROGRAM CODE: NIDTA-100

9. G-DEP ID [redacted]

8c. WHERE OBTAINED (City, State/Country): Gary, Indiana

8d. DATE OBTAINED: 05-19-2004

8e. REFERRING AGENCY (Name)

8f. REFERRAL [ ] Case No. OR [ ] Source No.

8. FILE TITLE [redacted]

7. DATE PREPARED: 05-19-2004

8. GROUP NO.: 4600

9. Exhibit No.	10. FDSN (10 characters)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX. GROSS QUANTITY 13. Secure	14. Submitted	15. Purchase Cost
20		Marijuana	Green Leafy Substance	1460.00	1460.00	3000.00
			contained in three sealed	Gross	Gross	NIDTA/OAF
			clear baggies, further	Grams	Grams	
			contained in a sealed			
			DEA Evidence Bag			

16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG? [ ] NO (Explain above) [ ] YES (If Yes, enter exhibit no. and describe original container fully)

REMARKS

Exhibit #20 as described above, was purchased by CS [redacted] for $3000.00 DEA/NIDTA OAF from Anthony ALEXANDER in Gary, Indiana on 5/19/2004. TFA Joe Rodriguez took custody of the exhibit and relinquished custody to TFA Lucas. TFA Lucas administratively processed and secured the exhibit pending submission to the DEA North Central Laboratory for analysis and safekeeping

.....PLEASE HOLD FOR LATENT PRINTS.....

17. SUBMITTED BY SPECIAL AGENT (Signature) TFA Steve Lucas

18. APPROVED BY (Signature & Title) GS Vince Ralph

LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES 1

20. SEAL [ ] Broken [X] Number

21. RECEIVED FROM (Signature & Date) 5/24/04

21. Name or Type NAME and TITLE PAUL K. ULRICH SA

22. RECEIVED BY (Signature & Date) 5/24/04

22. Print or Type NAME and TITLE Debra Nungaray DEA CI

LABORATORY REPORT

23. ANALYSIS SUMMARY AND REMARKS

SEE ATTACHED

26. Exhibit No.	27. Lab No.	28. ACTIVE DRUG INGREDIENT (Established or Common Name)	CONCENTRATION 29. Strength	30. Mixture	31. Unit	32. AMT OF PURE DRUG	33. RESERVE
20	1157369						

34. ANALYST (Signature) RAGNAR R. OLSON 6/10/04

35. TITLE FORENSIC CHEMIST

36. DATE COMPLETED 6/10/04

37. APPROVED BY (Signature & Date) NELSON A. SANTOS 6/24/04

38. TITLE LABORATORY DIRECTOR

39. LAB. LOCATION CHICAGO CGY 6/24/04

DEA Form

Moon & Alexander

U.S. Department of Justice
Drug Enforcement Administration
North Central Laboratory

CHEMICAL ANALYSIS REPORT

To: Resident Agent in Charge
Merrillville Resident Office

Date: July 8, 2004

Attn: SA Eric S. Lee

Case Number: IS-00-0126

Analysis Summary and Remarks:

Laboratory No.: 157744
Exhibit 21 contains: Cocaine Hydrochloride and Caffeine
Gross Wt.: 152.9 grams (g)
Net Wt.: 125.0 g
Active Drug Ingredient: Cocaine Hydrochloride – 71%
Amount of Pure Drug: 88.7 g
Reserve Wt.: 124.5 g

07/14/04
Analyst Ragnar R. Olson
Forensic Chemist
Date Completed 6/22/04

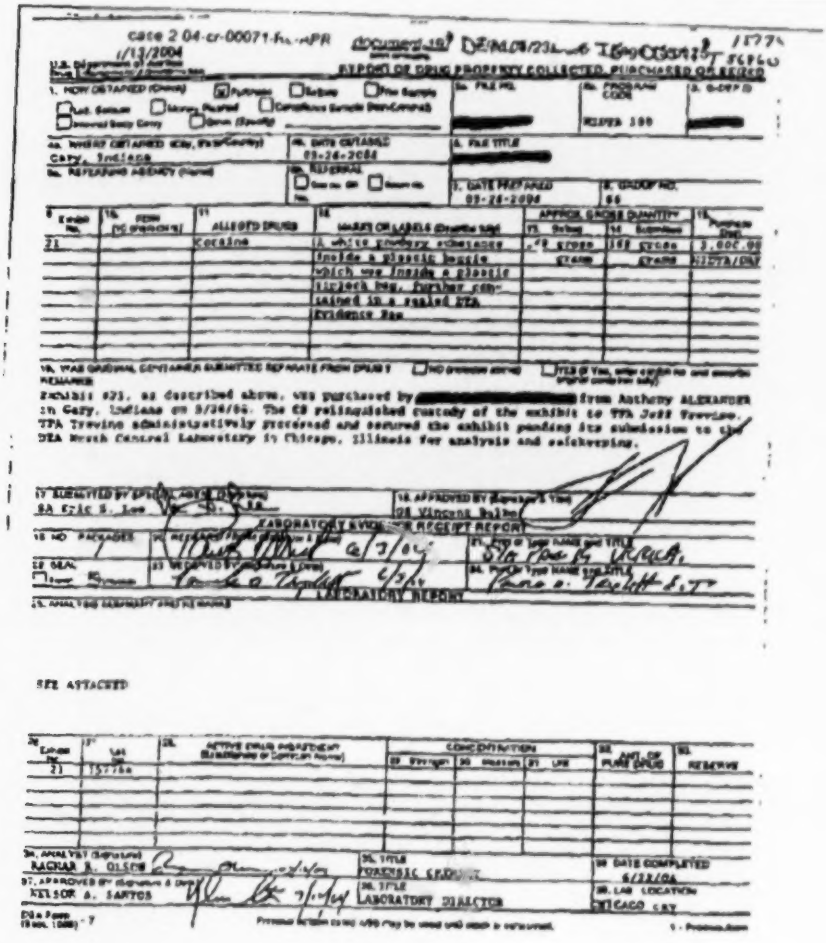
7/14/04
Approved by Nelson A. Santos
Laboratory Director
Laboratory Location: Chicago, Illinois

Prosecution / Orig. Office / Laboratory / Historical ..... Page 1 of 1

DEFENDANT'S EXHIBIT 11

Noon & Alexander

035



Case 2:04-cr-00071-[illegible]-PPR Document 18 Filed 07/23/04 Page 1 of 2 PageID #: 157
1/13/2004
U.S. Department of Justice
Drug Enforcement Administration
REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR RECEIVED

1. HOW OBTAINED (Check): Purchase; Seizure; Other Source; Evid. Sample; Lawfully Acquired; Surveillance Sample Destroyed; Unwanted Body Carry; Other (Specify)
2a. FILE NO. [redacted]
2b. PROGRAM CODE: KILPRO 300
2c. G-DEP ID [redacted]
3a. WHERE OBTAINED (City, State/Country): Gary, Indiana
3b. DATE OBTAINED: 03-24-2004
3c. REFERRING AGENCY (Name)
3d. REFERRAL: Direct; Indirect; No
4. FILE TITLE [redacted]
5. DATE PREPARED: 03-26-2004
6. GROUP NO.: 66

7 Exhibit No.	8a. ITEM (If Applicable)	9 ALLEGED DRUG	10 NAME OF LABELS (If other than DEA)	APPROX. GROSS QUANTITY 11a. Ordered	11b. Submitted	12. Packaging Code
Z1		Cocaine	A white powdery substance inside a plastic baggie which was inside a plastic ziplock bag, further contained in a sealed DEA Evidence Bag	1 KILOGRAM	1000 GRAMS	1.00E-03

11b. WAS ORIGINAL CONTAINER SUBMITTED AS MATE FROM DRUG? NO (If no, explain in REMARKS) YES (If Yes, enter code for and describe original container below)
REMARKS:
Exhibit #Z1, as described above, was purchased by [redacted] from Anthony ALEXANDER in Gary, Indiana on 3/24/04. The CS relinquished custody of the exhibit to TFA Jeff Trevino. TFA Trevino administratively processed and secured the exhibit pending its submission to the DEA North Central Laboratory in Chicago, Illinois for analysis and safekeeping.

13. SUBMITTED BY (Printed Name and Signature): SA Eric S. Lee
14. APPROVED BY (Signature & Title): [illegible]
15. APPROVED BY: Vincent Bailo
LABORATORY REVIEW AND ACCEPT REPORT
16. NO PACKAGES
17. RECEIVED (Signature & Date): 6/7/04
17. Type or Stamp Name and Title: DEA Forensic Chemist
18. SEAL: Yes; No
19. RECEIVED (Signature & Date): 6/7/04
20. Printed Name and Title: Irene D. Taylor, S.T.
LABORATORY REPORT
21. ANALYSIS PERFORMED BY (Print or Stamp Name)

SEE ATTACHED

22 Exhibit No.	23 Lab No.	24. ACTIVE DRUG INGREDIENT (If Applicable or Significant Amount)	CONCENTRATION 25 Percent	26 Dosage	27 Unit	28. AMT. OF FINAL DRUG	29. REMARKS
Z1	157766						

30. ANALYST (Signature): RACHAR R. OLSON
31. TITLE: FORENSIC CHEMIST
32. DATE COMPLETED: 6/23/04
33. APPROVED BY (Signature & Date): NELSON A. SANTOS
34. TITLE: LABORATORY DIRECTOR
35. LAB LOCATION: CHICAGO, ILL
DEA Form [illegible] (Rev. [illegible]) - 7
Previous editions to this form may be used until stock is exhausted.
1 - Processing Agency

Noon & Alexander

CHEMICAL ANALYSIS REPORT

To: Resident Agent in Charge
Mattoon Resident Office

Date: July 30, 200...

Attn: SA Eric S. Lee

Case Number: 15-00-0126

Analysis Summary and Remarks:

Laboratory No.: 357963
Exhibit 22 contains: Cocaine Base
Gross Wt.: 159.7 grams (g)
Net Wt.: 124.7 g
Active Drug Ingredient: Cocaine Base - 60%
Amount of Pure Drug: 74.8 g
Reserve Wt.: 124.2 g

Analyst Regina R. Olson
Forensic Chemist
Date Completed: 7/12/08

Approved by Nelson A. Santos
Laboratory Director
Laboratory Location: Chicago, IL - cgy

Prosecution / Org. Office / Laboratory / Hdqrs / .....Page 1 of 1

DEFENDANT'S EXHIBIT GG

Room 6 Alexander

037

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR SEIZED

1. HOW OBTAINED (Check) ☒ Purchase ☐ Seizure ☐ Found ☐ Abandoned ☐ Consensual Search (Non-Custodial) ☐ Lab. Sample ☐ Incident to Arrest ☐ Search Warrant ☐ Financial Body Carry ☐ Other (Specify)

2a. FILE NO. [redacted]
2b. PROGRAM CODE: WITTA 388
3. C-DOCKET NO. [redacted]

4a. WHERE OBTAINED (City, State/Country): Gary, Indiana
4b. DATE OBTAINED: 06-15-2006
5. FILE TITLE: [redacted]
6a. REFERRING AGENCY (Name)
6b. REFERRAL ☐ Direct, not ☐ Referred to
7. DATE PREPARED: 06-16-2006
8. CHECKED BY: GS

9. Exhibit No.	10. ITEM (If Applicable)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX. GROSS QUANTITY 13a. Seized	13b. Submitted	14. Property Item No.
33		Crack Cocaine	An off-white rock-like substance inside (14) heated plastic baggies which were inside a ziploc plastic bag. Further contained in a sealed DEA Evidence Bag	139.6 grams	139.6 grams	52,508 PHYS ONLY

16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG? ☒ NO (Explain above) ☐ YES (If Yes, were original ID and initials on bag?)

REMARKS:
Exhibit 33, as described above, was purchased by [redacted] from Anthony ALEXANDER in Gary, Indiana on 6/15/06. The CS relinquished custody of the exhibit to SA Eric Lee and TFA Jeff Trevino. TFA Trevino then administratively processed and secured the exhibit pending its submission to the DEA North Central Laboratory in Chicago, Illinois for analysis and safekeeping.

17. SUBMITTED BY (Typed name, agency, signature): SA Eric S. Lee
18. RECEIVED BY (Typed name, agency, signature): GS Vincent Balog

LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES: 1
20. RECEIVED FROM (Typed name, agency, signature)
21. RECEIVED BY (Typed name, agency, signature)
22. Typed name and title
23. Typed name and title

LABORATORY REPORT

24. ANALYSIS, FINDINGS AND REMARKS

SEE ATTACHED

25. Exhibit No.	26. Lab No.	27. ACTIVE DRUG INGREDIENT (Name/Strength or Common Name)	CONCENTRATION 28. Strength	29. Tolerance (+/-)	30. Unit	31. AMT. OF PURE DRUG	32. RESERVE
33	157867						

33. ANALYST (Signature): [signature] 07/12/06
34. TITLE: FORENSIC CHEMIST
35. DATE COMPLETED: 7/13/06
36. APPROVED BY (Signature & Date): [signature]
37. TITLE: LABORATORY DIRECTOR
38. LAB LOCATION: CHICAGO CEN

DEA Form 7 (Rev. 1-96)

1 - Property

Mock & Alexander

Drug Enforcement Administration
North Central Laboratory

CHEMICAL ANALYSIS REPORT

To: Resident Agent in Charge
Merrillville Resident Office

Date: July 20, 2004

Attn: TFA Jeff Trevino

Case Number: 15-00-0126

Analysis Summary and Remarks:

Laboratory No.: 158070
Exhibit 24 contains: Cocaine Hydrochloride and Procaine Hydrochloride
Gross Wt.: 281.6 grams (g)
Net Wt.: 238.7 g
Active Drug Ingredient: Cocaine Hydrochloride - 16 %
Amount of Pure Drug: 38.1 g
Reserve Wt.: 237.9 g

Analyst Ragnar R. Olson
Forensic Chemist
Date Completed: 7/16/04

Approved by Nelson A. Santos
Laboratory Director
Laboratory Location: Chicago, IL - cgy

Prosecution / Orig. Office / Laboratory / Hdqtrs / .....Page 1 of 1

DEFENDANT'S EXHIBIT

Moon & Alexander

039

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U.S. Department of Justice — Drug Enforcement Administration

DEA — REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR SEIZED

HOW OBTAINED (Check): [X] Purchase; [ ] Seizure; [ ] Found Sample; [ ] Lab. Sample; [ ] Money Laundered; [ ] Surveillance Sample (Non-Criminal); [ ] Informal Body Carry; [ ] Other (Specify)	2a. FILE NO. [redacted]	2b. PROGRAM CODE: HIDTA-100	3. G DEP ID: [redacted]
4a. WHERE OBTAINED (City, State/Country): Gary, Indiana	4b. DATE OBTAINED: 06-24-2004	5. FILE TITLE: [redacted]	
6a. REFERRING AGENCY (Name):	6b. REFERRAL: [ ] Case No. OR [ ] Seizure No.:	7. DATE PREPARED: 06-24-2004	8. GROUP NO.: 66

9. Exhibit No.	10. FDRN (10 characters)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX GROSS QUANTITY 13. Seized	APPROX GROSS QUANTITY 14. Submitted	15. Purchase Cost
24		Cocaine	A white powdery substance inside a clear plastic baggie, contained in brown paper bag, further contained in a sealed DEA evidence bag	281.0 Gross Grams	281.0 Gross Grams	$6,000.00 HIDTA/OAT

16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG? [ ] NO (Explained above) [ ] YES (If Yes, enter exhibit no. and describe original container fully)

REMARKS:

Exhibit #24, as described above, was purchased by CS-[redacted] from Anthony ALEXANDER in Gary, Indiana on 6/24/2006. The CS relinquished custody of the exhibit to TFA Jeff Trevino. TFA Trevino administratively processed and secured the exhibit pending its submission to the DEA North Central Laboratory for analysis and safekeeping.

17. SUBMITTED BY SPECIAL AGENT (Signature): TFA Jeff Trevino — 18. APPROVED BY (Signature & Title): GS Vince Balbo

LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES: 1	20. RECEIVED BY (Signature & Date): 6/25/04	21. Printed Type NAME and TITLE: MARK R ULRICH SA
22. SEAL: [ ] Broken [X] Intact	23. RELEASED BY (Signature & Date): 6/25/04	24. Printed Type NAME and TITLE: Pamela A Taylor CT

LABORATORY REPORT

25. ANALYSIS SUMMARY AND REMARKS

SEE ATTACHED

26. Exhibit No.	27. Lab No.	28. ACTIVE DRUG INGREDIENT (Established or Common Name)	CONCENTRATION 29. Strength	30. Measure	31. Unit	32. AMT OF PURE DRUG	33. RESERVE
24	556070						

34. ANALYST (Signature): RAGNAR R. OLSON — 35. TITLE: FORENSIC CHEMIST — 36. DATE COMPLETED: 7-16-04

37. APPROVED BY (Signature & Date): NELSON A. SANTOS — 38. TITLE: LABORATORY DIRECTOR — 39. LAB LOCATION: CHICAGO FSL

Moon & Alexander

Department of Justice
Drug Enforcement Administration
North Central Laboratory

CHEMICAL ANALYSIS REPORT

To: Resident Agent in Charge
Merrillville Resident Office

Date: September 15, 2004

Attn: TFA Jeff Trevino

Case Number: I5-00-0126

Analysis Summary and Remarks:

Laboratory No.: 139059
Exhibit 28 contains: Cocaine Hydrochloride, Lidocaine (salt undetermined), and Procaine (salt undetermined)
Gross Wt.: 550.3 grams (g)
Net Wt.: 492.9 g
Active Drug Ingredient: Cocaine Hydrochloride – 25%
Amount of Pure Drug: 123.2 g
Reserve Wt.: 492.0 g

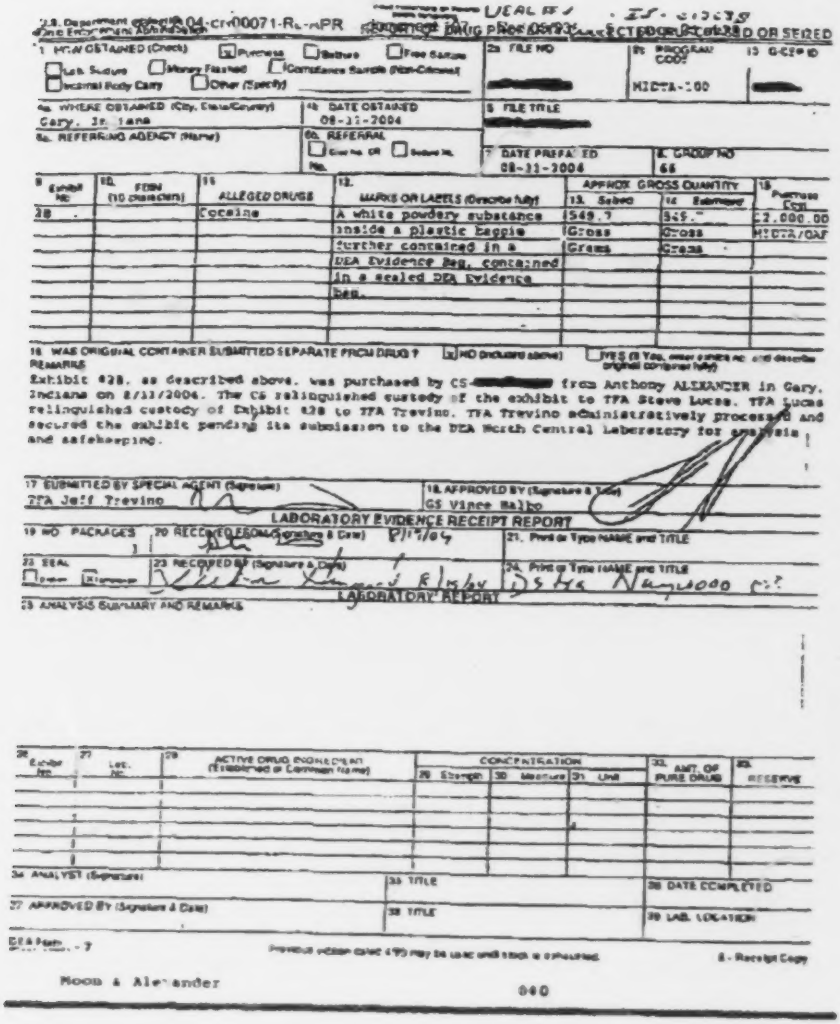
09/15/04
Analyst Ragini R. Chen
Forensic Chemist
Date Completed: 09/09/04

Approved by Nelson A. Santos
Laboratory Director
Laboratory Location: Chicago, IL-alt

Prosecution / Orig. Office / Laboratory / Judge / .....Page 1 of 3

DEFENDANT'S EXHIBIT

Hcen & Alexander



2a. Department ofJustice 1:04-cr-00071-RLY-MPR Document 270 Filed 05/23/ SEIZED OR SEIZED

1. HOW OBTAINED (Check) [X] Purchase [ ] Seizure [ ] Found [ ] Sub. Seizure [ ] Money Passed [ ] Surveillance Sample (Non-Criminal) [ ] Incidental Body Carry [ ] Other (Specify)

2a. FILE NO [redacted] | 2b. PROGRAM CODE: HIDTA-100 | 3. GROUP ID [redacted]

4a. WHERE OBTAINED (City, State/Country): Gary, In. Iana | 4b. DATE OBTAINED: 08-11-2004 | 5. FILE TITLE [redacted]

6a. REFERRING AGENCY (Name) | 6b. REFERRAL [ ] Source Off [ ] Source No. | 7. DATE PREPARED: 08-11-2004 | 8. GROUP NO: 66

9. Exhibit No.	10. FDIN (10 characters)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX. GROSS QUANTITY 13. Submit	14. Estimated	15. Purchase Cost
2B		Cocaine	A white powdery substance	549.7	549."	$2,000.00
			inside a plastic baggie	Gross	Gross	HIDTA/OAF
			further contained in a	Grams	Grams	
			DEA Evidence Bag, contained			
			in a sealed DEA Evidence			
			Bag.			

16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG? [X] NO (Included above) [ ] YES (If Yes, enter owner's no. and describe original container fully)

REMARKS

Exhibit #2B, as described above, was purchased by CS-[redacted] from Anthony ALEXANDER in Gary, Indiana on 8/11/2004. The CS relinquished custody of the exhibit to TFA Steve Lucas. TFA Lucas relinquished custody of Exhibit #2B to TFA Trevino. TFA Trevino administratively processed and secured the exhibit pending its submission to the DEA North Central Laboratory for analysis and safekeeping.

17. SUBMITTED BY SPECIAL AGENT (Signature): TFA Jeff Trevino | 18. APPROVED BY (Signature & Title): GS Vince Balko

LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES: 1 | 20. RECEIVED FROM (Signature & Date): 8/11/04 | 21. Print or Type NAME and TITLE

22. SEAL [ ] Open [X] Intact | 23. RECEIVED BY (Signature & Date) | 24. Print or Type NAME and TITLE: DEA Manager

LABORATORY REPORT

25. ANALYSIS SUMMARY AND REMARKS

26. Exhibit No.	27. Lot No.	28. ACTIVE DRUG INGREDIENT (Established or Common Name)	CONCENTRATION 29. Strength	30. Measure	31. Unit	32. AMT. OF PURE DRUG	33. RESERVE

34. ANALYST (Signature) | 35. TITLE | 36. DATE COMPLETED

37. APPROVED BY (Signature & Date) | 38. TITLE | 39. LAB. LOCATION

DEA Form ... - 7 (Previous edition dated 4-75 may be used until stock is exhausted.) 8 - Receipt Copy

Moon & Alexander